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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,602	01/27/2004	Jeffrey Scott Anderson	02315-P0028B	3388
24126	7590	07/19/2006	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619			DAVIS, ROBERT B	
			ART UNIT	PAPER NUMBER
			1722	

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/766,602	ANDERSON ET AL.
	<b>Examiner</b> Robert B. Davis	<b>Art Unit</b> 1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 May 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 15-24 and 27-31 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4,6-9,25,26,32 and 33 is/are rejected.
- 7) Claim(s) 5 and 10-14 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                                             |                                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                             | Paper No(s)/Mail Date. _____.                                               |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/3/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                                             | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 1-14, in the reply filed on May 12, 2006 is acknowledged. Claims 25, 26, 32 and 33 have been rejoined with the apparatus claims 1-14. The examined claims include 1-14, 25, 26, 32 and 33. Applicant did not traverse the restriction requirement in regards to Groups II, IV or V.
2. Claims 15-24 and 27-31 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 12, 2006.

### ***Specification***

3. The disclosure is objected to because of the following informalities:  
  
The patent application mentioned in paragraph 5 of the specification must be updated.  
  
Appropriate correction is required.
4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The first and second punches having rounded edges.

### ***Claim Objections***

5. Claim 1 is objected to because of the following informalities:  
  
On line 8 of claim 1, "mold potions" should be "mold portions".  
  
Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 6-9, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Farrell (3,928,522: figures 1-5 and column 3, lines 13-34).

Farrell teaches a blow molding apparatus comprising: a mold (14) comprising first and second mold portions (30, 32) that, when located adjacent each other along a seam, enclose a reservoir cavity (36) against which a wall of a blow molded container is blown during blow molding; wherein the first and second mold portions have respective first or second gaps (42, 42a) therein that, when the first and second mold portions are located adjacent each, form a hole in the mold that intersects the seam, a first punch (40) that, when in a first position is disposed within the first gap; and a second punch (44) that, when in a first position is positioned in a second gap (see figure 2); wherein, when the first and second mold portions are located adjacent each other, the first punch is located adjacent the second punch such that when the first and second punches are in a second position (not shown in the figures of the reference), at least part of each of the punches is extended past the wall of the blow molded container and inside the reservoir cavity (column 3, line 39 to column 4, line 18) such that the punches collectively create on hole in the wall of the blow molded container. The material sheared from the blown container is indicated by broken lines (62). The punches (40,

44) have rounded edges (illustrated in figure 3 and by the shape of the handle in figure 1) and flat edges that contact the blown article (figure 2). The punch (44) is driven by cylinder and piston motor (48). Cylinder and piston motors inherently encompass hydraulic and pneumatic actuators. The mold also has a cavity forming a spout of a container.

The reference also teaches a method of blowing a container within the mold (14) and then actuating of opposing plungers (40, 44) to create a hole in the container.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farrell taken together with Wohlgemuth (5,776,518: figure 14 and column 7, lines 24-44).

Farrell discloses all claimed features except for the use of opposing bushings and pins for alignment of opposing molding elements.

Wohlgemuth discloses a blow mold having opposing pins (608) and bushings (610A) to allow alignment of the opposed neck molds (604, 604A).

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the punches of Farrell by having opposed pins and bushings as disclosed by Wohlgemuth for the purpose of aligning opposing mold elements.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farrell taken together with Peters (3,342,916: figures 1-6).

Farrell discloses all claimed features except for the punches having recesses for receiving flash when the first and second mold portions are moved adjacent each other.

Peters discloses opposing punches (7 and 8) having recesses (6) for flash when a handle portion is formed during a blow molding process.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the apparatus of Farrell by using opposed flash recesses as disclosed by Peters for the purpose of shearing the opening of a handle portion of an article such a clean edge is formed in the article and the punches have a space for the discarded plastic.

12. Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farrell taken together with Tisbo et al (4,030,664: figures 1-3, column 2, lines 15-17).

Farrell disclose a method of making a blow molded article having a handle formed by punching plastic from the blown article by activation of opposing punches within a blow mold as disclosed supra; however, the reference does not disclose blow molding a watering can.

Tisbo et al disclose a method of blow molding a watering can.

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify the process of Farrell by changing the shape of the mold cavity to form a watering can as disclosed by Tisbo et al.

***Allowable Subject Matter***

13. Claims 5 and 10-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art teach or suggest one of the first and second punches including a vertical pin adapted to be inserted into a vertical bushing to allow for adjustment of the punch. In regards to claim 10, none of the prior art teach or suggest a third mold portion located at the second end of the spout cavity, the third mold portion having a surface that intersects a vertical plane of the spout cavity and against which the wall of the blow molded container is blown during blow molding.

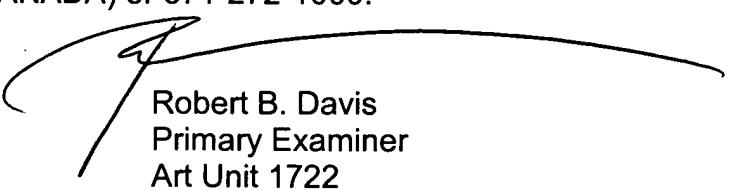
***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining references illustrate the state of the art of references forming handled containers by blow molding.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Davis whose telephone number is 571-272-1129. The examiner can normally be reached on Monday-Friday 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert B. Davis  
Primary Examiner  
Art Unit 1722

7/14/06